

**53B-1-101. Purpose of title.**

It is the purpose of this title:

- (1) to provide a high quality, efficient, and economical public system of higher education through centralized direction and master planning which:
  - (a) avoids unnecessary duplication;
  - (b) provides for the systematic and orderly development of facilities and quality programs;
  - (c) provides for coordination and consolidation; and
  - (d) provides for systematic development of the role or roles of each institution within the system of higher education consistent with the historical heritage and tradition of each institution;
- (2) to vest in the State Board of Regents the power to govern the state system of higher education consistent with state law and delegate certain powers to institutional boards of trustees and institutional presidents, and to vest certain powers in institutional boards of trustees and institutional presidents.

Amended by Chapter 58, 1991 General Session

**53B-1-101.5. Definitions.**

As used in this title:

- (1) "Board" means the State Board of Regents established in Section 53B-1-103.
- (2) "Career and technical education" means organized educational programs offering sequences of courses or skill sets directly related to preparing individuals for paid or unpaid employment in current or emerging occupations that generally do not require a baccalaureate or advanced degree.
- (3) "Commissioner" means the commissioner of higher education appointed in accordance with Section 53B-1-105.

Amended by Chapter 346, 2009 General Session

**53B-1-101.8. Health insurance mandates.**

An institution of higher education shall include in a health plan it offers to its employees insurance mandates in accordance with Section 31A-22-605.5

Enacted by Chapter 127, 2012 General Session

**53B-1-102. State system of higher education.**

- (1) The state system of higher education consists of the following institutions:
  - (a) State Board of Regents;
  - (b) the University of Utah;
  - (c) Utah State University;
  - (d) Weber State University;
  - (e) Southern Utah University;
  - (f) Snow College;
  - (g) Dixie State University;

(h) Utah Valley University;  
(i) Salt Lake Community College;  
(j) the Utah College of Applied Technology; and  
(k) other public post-high school educational institutions as the Legislature may designate.

(2) A change in the name of an institution within the system of higher education shall not be considered a change in the role or mission of the institution, unless otherwise authorized by the State Board of Regents.

(3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.

(4) These institutions are empowered to sue and be sued and to contract and be contracted with.

Amended by Chapter 10, 2013 General Session

**53B-1-103. Establishment of State Board of Regents -- Powers and authority.**

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board is vested with the control, management, and supervision of the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to it.

(b) The board may only exercise powers relating to the Utah College of Applied Technology and its college campuses that are specifically provided in this title.

(c) The board shall coordinate and support articulation agreements between the Utah College of Applied Technology and other institutions of higher education.

(d) The board shall prepare and submit an annual report detailing its progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

(i) how the career and technical education needs of secondary students are being met by institutions of higher education other than the Utah College of Applied Technology, including what access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees.

(e) Except for the Utah College of Applied Technology, the board may modify the name of an institution under its control and management, as designated in Section 53B-1-102, to reflect the role and general course of study of the institution.

(f) The board may not conduct a feasibility study or perform another act relating

to merging any of the following institutions with another institution of higher education:

- (i) the Bridgerland Applied Technology College Campus;
- (ii) the Ogden-Weber Applied Technology College Campus;
- (iii) the Davis Applied Technology College Campus;
- (iv) the Tooele Applied Technology College Campus;
- (v) the Mountainland Applied Technology College Campus;
- (vi) the Uintah Basin Applied Technology College Campus;
- (vii) the Southwest Applied Technology College Campus; and
- (viii) the Dixie Applied Technology College Campus.

(3) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(4) The board shall conduct a study regarding the feasibility of providing a veterans' walk-in center or services at each state institution of higher education. The study shall include:

- (a) an implementation plan for providing a walk-in center or services at each institution of higher education;
- (b) criteria, based upon the size of the institution, to determine whether the institution should be required to provide a walk-in center or services;
- (c) responsibilities of the walk-in center or services;
- (d) a notification process about the walk-in center or services to veterans upon their application for admission;
- (e) the possibility of staffing a veterans walk-in center or services with veterans, including through work-study positions to be filled by veterans;
- (f) annual reports from each walk-in center and services to the board which includes summary information of veterans served; and
- (g) funding requirements for a veterans walk-in center and services.

(5) Presentation of the study, including the implementation plan with funding and other recommendations, shall be made to a legislative committee, commission, or task force upon request no later than the October 2014 interim meeting.

Amended by Chapter 88, 2014 General Session

**53B-1-104. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation.**

- (1) (a) The board shall consist of 19 residents of the state.
- (b) (i) Fifteen members shall be appointed by the governor with the consent of the Senate.
- (ii) (A) One additional member shall be appointed by the governor from nominations of the student body presidents council.
- (B) The student body presidents council shall nominate three qualified, matriculated students enrolled in the state institutions of higher education.
- (C) Student body presidents are not eligible for nomination.
- (iii) All appointments to the board shall be made on a nonpartisan basis.
- (iv) In making appointments to the board, the governor shall select:

(A) at least two individuals who reside within a county of the fourth, fifth, or sixth class;

(B) no more than six individuals who reside within a county of the first class;

(C) the remaining individuals from the state at large with due consideration for geographical representation and diversity of exposure to the various institutions in the Utah System of Higher Education; and

(D) at least three individuals with personal experience in career and technical education, which could include service on a campus board of directors.

(c) (i) In addition to the members designated under Subsection (1)(b), two members of the State Board of Education, appointed by the chair of the State Board of Education, shall serve as nonvoting members of the board.

(ii) A nonvoting State Board of Education member shall continue to serve as a member without a set term until the member is replaced by the chair of the State Board of Education.

(d) (i) In addition to the members designated under Subsection (1)(b), one member of the Utah College of Applied Technology Board of Trustees, appointed by the chair of the Utah College of Applied Technology Board of Trustees, shall serve as a nonvoting member of the board.

(ii) A nonvoting Utah College of Applied Technology Board of Trustees member shall continue to serve as a member without a set term until the member is replaced by the chair of the Utah College of Applied Technology Board of Trustees.

(2) (a) Five members of the board, other than the student member, the State Board of Education members, and the Utah College of Applied Technology Board of Trustees member, shall be appointed during each odd-numbered year to six-year staggered terms which commence on July 1 of the year of appointment.

(b) (i) The student member shall be appointed for a one-year term and may be reappointed for one additional term.

(ii) The student member has full voting rights and may vote on selection of a board chair or vice chair, but not serve in either office.

(c) Board members shall hold office until their successors have been appointed and qualified.

(3) (a) Each member of the board shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(4) The board shall elect a chair and vice chair from its members who shall serve terms of two years and until their successors are chosen and qualified.

(5) (a) The board shall appoint a secretary from the staff of its chief executive to serve at its discretion.

(b) The secretary shall be a full-time employee who receives a salary set by the board.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(6) The board shall appoint a treasurer who serves at the discretion of the board.

(7) (a) The board may establish advisory committees.

(b) The powers and authority of the board are nondelegable, except as

specifically provided for in this title.

(c) All matters requiring board determination shall be addressed in a properly convened meeting of the board or its executive committee.

(8) The board shall enact bylaws for its own government not inconsistent with the constitution or the laws of this state.

(9) (a) The board shall meet regularly upon its own determination.

(b) The board may also meet, in full or executive session, at the request of its chair, its executive officer, or five members of the board.

(10) A quorum of the voting members of the board is required to conduct its business and consists of nine members.

(11) (a) A vacancy in the board occurring before the expiration of a voting member's full term shall be immediately filled by appointment by the governor with the consent of the Senate.

(b) The appointee serves for the remainder of the unexpired term.

(12) A board member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 5, 2011 Special Session 3

**53B-1-105. Appointment of commissioner of higher education --  
Qualifications -- Duties.**

(1) (a) The board, upon approval from the governor and with the consent of the Senate for each appointee nominated on or after May 8, 2012, shall appoint a commissioner of higher education to serve at its pleasure as its chief executive officer.

(b) The commissioner may be terminated by:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2) The commissioner is responsible to the board to:

(a) ensure that the policies and programs of the board are properly executed;

(b) furnish information about the state system of higher education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution in the state system of higher education; and

(d) perform other duties assigned by the board in carrying out its duties and responsibilities.

Amended by Chapter 78, 2012 General Session

**53B-1-106. Appointment and hiring of staff -- Transfer of functions, personnel, and funds.**

Upon the commissioner's recommendation, the board appoints and hires a staff of professional and administrative personnel to serve at its pleasure. Salaries, retirement provisions, other benefits, and capacities of service are determined by the board. If the board transfers a staff function from an institution's own staff, the funds budgeted by the institution for the transferred functions are transferred to the board. Transferred personnel retain their retirement and other benefits and seniority of term standing with the institution from which they are transferred.

Enacted by Chapter 167, 1987 General Session

**53B-1-107. Annual report of board activities.**

The board shall submit an annual report of its activities to the governor and to the Legislature and shall provide copies to all institutions in the state system of higher education.

Enacted by Chapter 167, 1987 General Session

**53B-1-108. Board succeeds to rights and duties of predecessor board and council.**

The board is the successor to and is vested with all rights, duties, obligations, and liabilities to which its predecessor governing boards and the Coordinating Council of Higher Education were subject, except as otherwise provided by law.

Enacted by Chapter 167, 1987 General Session

**53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier -- Coordination of concurrent enrollment advising.**

(1) As used in this section, "unique student identifier" has the same meaning as provided in Section 53A-1-603.5.

(2) The State Board of Regents and State Board of Education shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53A-1-603.5.

(3) Information technology systems utilized at an institution within the state system of higher education shall utilize the unique student identifier of all students who have previously been assigned a unique student identifier.

(4) (a) The State Board of Regents and the State Board of Education shall coordinate advising to a prospective or current high school student who participates in the concurrent enrollment program established in 53A-15-101.

(b) Advising shall include information on general education requirements at higher education institutions and how the student can efficiently choose concurrent enrollment courses to avoid duplication or excess credit hours.

(5) (a) Eight weeks after the end of each semester, the State Board of Regents

shall make available, to a requesting higher education institution in the state system of higher education that participates in concurrent enrollment, a report listing each public high school student who was enrolled in a concurrent enrollment course and admitted to the requesting higher education institution, including:

- (i) the student's name and unique student identifier;
  - (ii) the student's:
    - (A) school district and school; or
    - (B) charter school;
  - (iii) the course name of each concurrent enrollment course taken by the student;
  - (iv) the higher education institution where the student enrolled to take each concurrent enrollment course; and
  - (v) (A) all the credits the student earned in each concurrent enrollment course; and
  - (B) a designation that indicates which credits listed in Subsection (5)(a)(v) the student earned at a grade "C" or higher.
- (b) The board shall report the information described in Subsection (5)(a) for every concurrent enrollment course taken by a student in any year.

Amended by Chapter 301, 2011 General Session

**53B-1-110. Criminal background checks of prospective and existing employees of higher education institutions -- Board to adopt policy.**

- (1) As used in this section:
  - (a) "Institution" means an institution listed in Section 53B-1-102.
  - (b) "Minor" means a person younger than 21 years of age.
- (2) The board shall adopt a policy providing for criminal background checks of:
  - (a) prospective employees of institutions; and
  - (b) existing employees of institutions, where reasonable cause exists.
- (3) (a) The policy shall require that:
  - (i) an applicant for any position that involves significant contact with minors or any position considered to be security sensitive by the board or its designee shall submit to a criminal background check as a condition of employment; and
  - (ii) an existing employee submit to a criminal background check, where reasonable cause exists.
- (b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.
- (c) The policy may allow or require applicants for positions other than those described in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.
- (d) The policy may allow criminal background checks for new employees to be phased in over a two-year period.
- (4) The applicant or employee shall receive written notice that the background check has been requested.
- (5) Each applicant or employee subject to a criminal background check under this section shall, if required by the institution:
  - (a) be fingerprinted; and
  - (b) consent to a fingerprint background check by:

- (i) the Utah Bureau of Criminal Identification; and
  - (ii) the Federal Bureau of Investigation.
- (6) (a) Institutions may request the Utah Bureau of Criminal Identification to conduct criminal background checks of prospective employees and, where reasonable cause exists, existing employees pursuant to board policy.
- (b) At the request of an institution, the Utah Bureau of Criminal Identification shall:
- (i) release the individual's full record of criminal convictions to the administrator requesting the information; and
  - (ii) seek additional information from regional or national criminal data files in responding to inquiries under this section.
- (c) Information received by the Utah Bureau of Criminal Identification from entities other than agencies or political subdivisions of the state may not be released to a private entity unless the release is permissible under applicable laws or regulations of the entity providing the information.
- (d) Except as provided in Subsection (7), the institution shall pay the cost of background checks conducted by the Utah Bureau of Criminal Identification, and the money collected shall be credited to the Utah Bureau of Criminal Identification to offset its expenses.
- (7) The board may by policy require an applicant to pay the costs of a criminal background check as a condition of employment.
- (8) The applicant or employee shall have an opportunity to respond to any information received as a result of the criminal background check.
- (9) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons under procedures established by the board in policy.

Enacted by Chapter 248, 2007 General Session

**53B-1-201. Definitions.**

As used in this part:

- (1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to conditions:
- (a) imposed, requested, or provided by a foreign government or foreign person; and
  - (b) that relate to:
    - (i) what kinds of teachers or students may benefit from the gift; or
    - (ii) a description of the subject matter to be taught with the support of the gift.
- (2) "Foreign government" means a government other than the government of:
- (a) the United States;
  - (b) a state within the United States;
  - (c) a territory or possession of the United States; or
  - (d) a political subdivision of the United States.
- (3) "Foreign person" means:
- (a) a foreign government defined in Subsection (2);



(b) an individual who is not a citizen or national of the United States or of a territory or protectorate of the United States;

(c) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under the laws of a foreign government or that has its principal place of business located outside the United States;

(d) if known by the higher education institution, a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized pursuant to the laws of the United States or a state within the United States, if a majority of the stock or other equity interest is directly or indirectly owned by, or which derives a majority of its funding from:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d); or

(e) if known by the higher education institution, a committee or other group in which a majority of the membership is composed of:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d).

(4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or property of any kind.

(5) "Higher education institution" means an institution in the state system of higher education as defined in Section 53B-1-102.

Enacted by Chapter 243, 2010 General Session

**53B-1-202. Disclosure of foreign gifts to higher education institutions.**

(1) (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, a higher education institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the higher education institution of \$50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.

(b) A higher education institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:

(i) for a foreign person that is an individual, the principal residence; and

(ii) for a foreign person that is not an individual, the principal place of business.

(c) The \$50,000 amount described in Subsection (1)(a) is increased to \$250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:

(i) with a principal residence or principal place of business located in the United States; and

(ii) with a permanent resident status:

(A) under Section 245 of the Immigration and Nationality Act; and

(B) for 10 years or more.

(2) A disclosure report regarding all gifts described in Subsection (1) shall

include:

- (a) the amount of each gift described in Subsection (1);
  - (b) the date on which each gift described in Subsection (1) was received by the higher education institution;
  - (c) the name of the foreign person making each gift described in Subsection (1);
  - (d) the aggregate amount of all gifts described in Subsection (1) from a foreign person during the prior fiscal year of the higher education institution;
  - (e) for a conditional gift, a description of the conditions or restrictions related to the conditional gift;
  - (f) for a conditional gift:
    - (i) for a foreign person that is an individual, if known, the country of citizenship or principal residence of the individual; or
    - (ii) for a foreign person that is not an individual, if known, the country of incorporation or place of business of the foreign person; and
  - (g) for a conditional gift that is a contract entered into between a higher education institution and a foreign person:
    - (i) the amount;
    - (ii) the date;
    - (iii) a description of all conditions or restrictions; and
    - (iv) the name of the foreign person.
- (3) A disclosure report required by this section is a public record open to inspection and review during the higher education institution's business hours.
- (4) At the request of the board, the attorney general may file a civil action to compel a higher education institution to comply with the requirements of this section.
- (5) On or before the November interim meeting of each year, the board shall report to the Education Interim Committee and provide a summary of all gifts described in Subsection (1) received by higher education institutions during the prior fiscal year.
- (6) The board shall make rules for the administration of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 243, 2010 General Session